

REMARKS

This is a full and timely response to the Restriction Requirement of 1 December 2004. Examination of the application on its merits following entry of this response is respectfully requested.

In the recent Office Action, the Office alleged that the present application includes claims to independent and distinct inventions. Consequently, the Office requires election of one of the following groups of claims:

- (1) Claims 1-23; and
- (2) Claims 24-26.

Applicant hereby elects claims the first group, claims 1-23 for immediate prosecution. Accordingly, claims 24-26 are marked as “withdrawn” above.

This election is with traverse. The reason given in the Action to support the Restriction Requirement is that “the steps for coupling a fiber optic cable to a user location can be carried out in a different order than the steps being recited in the method claims.” (Action 12/1/04, p. 2). Applicant respectfully submits that this is irrelevant.

The method claims in the present application do not state that the recited steps must be performed in a particular order. Given the open nature of the transition phrase “comprising,” claim 24, for example, recites the steps of a claimed method, but does not require that those steps be performed in the listed order. The claims would be infringed by, or read on, a process with all the claimed steps in a different order than that listed.

Moreover, whether or not the steps can be re-ordered has no bearing on whether claims 24-26 are separate and distinct from the apparatus claims 1-23. As stated in the Action, it is necessary to show that the product of the apparatus claims can be used in a materially different process or that the process can be used with a materially different product.

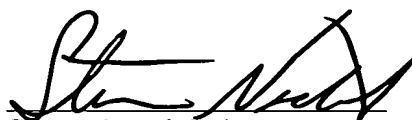
The recent Office Action does not address this issue and is devoid of the required analysis to support a Restriction Requirement.

Therefore, because the Restriction Requirement in the Office Action of 1 December 2004 is improperly supported, Applicant respectfully requests that the Restriction Requirement be reconsidered and withdrawn and that method claims 24-26 be examined with apparatus claims 1-23.

If any fees are owed in connection with this paper which have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: 3 January 2005



Steven L. Nichols  
Registration No. 40,326

Steven L. Nichols, Esq.  
Managing Partner, Utah Office  
**Rader Fishman & Grauer PLLC**  
River Park Corporate Center One  
10653 S. River Front Parkway, Suite 150  
South Jordan, Utah 84095

(801) 572-8066  
(801) 572-7666 (fax)

**CERTIFICATE OF MAILING**

DATE OF DEPOSIT: January 3, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date indicated above in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.



Rebecca R. Schow